

Case Docket Entries

CC-05-2021-C-74

Court: **Circuit** County: **05 - Brooke** Created Date: **11/3/2021** Security Level: **Public**
 Judge: **Ronald E. Wilson** Case Type: **Civil** Case Sub-Type: **Real Property** Status: **Open**
 Related Cases:
 Style: **Richard D Dillinger v. Petroleum Fuel and Terminal Company**

	<u>Entered Date</u>	<u>Event</u>	<u>Ref. Code</u>	<u>Description</u>
1	11/3/2021 3:29:35 PM	E-Filed		Complaint
	1-1 11/3/2021	Civil Case Information Statement		
	1-2 11/3/2021	Supporting Document - CCIS		
	1-3 11/3/2021	Complaint - Complaint in Civil Action		
	1-4 11/3/2021	Transmittal		
	1-5 11/3/2021	Summons		
2	11/3/2021 3:29:35 PM	Judge Assigned	J-15001	Ronald E. Wilson
3	11/3/2021 3:29:35 PM	Party Added	P-001	Richard D Dillinger
4	11/3/2021 3:29:35 PM	Party Added	P-002	Michelle L Dillinger
5	11/3/2021 3:29:35 PM	Party Added	D-001	Petroleum Fuel and Terminal Company
6	11/3/2021 3:29:35 PM	Party Added	D-002	Apex Oil Company
7	11/3/2021 3:29:35 PM	Party Added	D-003	Central Point Terminal J&W, LLC
8	11/3/2021 3:29:35 PM	Party Added	D-004	Central Point Terminal Company, LLC
9	11/3/2021 3:29:35 PM	Party Added	D-005	John Doe(s)
10	11/3/2021 3:29:35 PM	Attorney Listed	P-001	A-7120 - James A. Villanova
11	11/3/2021 3:29:35 PM	Attorney Listed	P-002	A-7120 - James A. Villanova
12	11/3/2021 3:29:35 PM	Service Requested	D-001	Plaintiff - Secretary of State
13	11/3/2021 3:29:35 PM	Service Requested	D-002	Plaintiff - Secretary of State
14	11/3/2021 3:29:35 PM	Service Requested	D-003	Plaintiff - Secretary of State
15	11/3/2021 3:29:35 PM	Service Requested	D-004	Plaintiff - Secretary of State
16	11/3/2021 3:29:35 PM	Service Requested	D-005	No Service
17	12/20/2021 11:31:17 AM	Other		SUMMONS & COMPLAINT SENT TO SECRETARY OF STATE FOR SERVICE ON PETROLEUM FUEL & TERMINAL COMPANY, APEX OIL CO., CENTRAL POINT TERMINAL J & W, LLC & CENTRAL POINT TERMINAL COMPANY, LLC
18	1/3/2022 11:17:30 AM	E-Docketed		Service Return - SUMMONS & COMPLAINT RETURNED FROM THE SECRETARY OF STATE'S OFFICE/ACCEPTED SERVICE ON BEHALF OF CENTER POINT TERMINAL J&W,LLC
	18-1 1/3/2022	Service Return - SUMMONS & COMPLAINT RETURNED FROM THE SECRETARY OF STATE'S OFFICE/ACCEPTED SERVICE ON BEHALF OF CENTER POINT TERMINAL J&W, LLC 12/22/21		
	18-2 1/3/2022	Transmittal		
19	1/3/2022 11:25:21 AM	E-Docketed		Service Return - SUMMONS & COMPLAINT RETURNED FROM THE SECRETARY OF STATE'S OFFICE/ACCEPTED SERVICE ON BEHALF OF CENTER POINT TERMINAL COMPANY, LLC 12/22/21
	19-1 1/3/2022	Service Return - SUMMONS & COMPLAINT RETURNED FROM THE SECRETARY OF STATE'S OFFICE/ACCEPTED SERVICE ON BEHALF OF CENTER POINT TERMINAL COMPANY, LLC ON 12/22/21		
	19-2 1/3/2022	Transmittal		
20	1/3/2022 11:33:11 AM	E-Docketed		Service Return - SUMMONS & COMPLAINT RETURNED FROM THE SECRETARY OF STATE'S OFFICE/ACCEPTED SERVICE ON BEHALF OF APEX OIL COMPANY, INC., 12/22/21

Case Docket Entries**CC-05-2021-C-74**

	<u>Entered Date</u>	<u>Event</u>	<u>Ref. Code</u>	<u>Description</u>
	20-1 1/3/2022	Service Return - SUMMONS & COMPLAINT RETURNED FROM THE SECRETARY OF STATE'S OFFICE/ACCEPTED SERVICE ON BEHALF OF APEX OIL COMPANY, INC., 12/22/21		
	20-2 1/3/2022	Transmittal		
21	1/3/2022 11:41:12 AM	E-Docketed		Service Return - SUMMONS & COMPLAINT RETURNED FROM THE SECRETARY OF STATE'S OFFICE/ACCEPTED SERVICE ON BEHALF OF PETROLEUM FUEL & TERMINAL COMPANY ON 12/22/21
	21-1 1/3/2022	Service Return - SUMMONS & COMPLAINT RETURNED FROM THE SECRETARY OF STATE'S OFFICE/ACCEPTED SERVICE ON BEHALF OF PETROLEUM FUEL & TERMINAL COMPANY ON 12/22/21		
	21-2 1/3/2022	Transmittal		



**Service of Process
Transmittal**

12/27/2021

CT Log Number 540790912

TO: Mary Hockle
Apex Oil Company, Inc.
8235 Forsyth Blvd Ste 400
Clayton, MO 63105-1644

RE: Process Served in West Virginia

FOR: Center Point Terminal Company, LLC (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Re: RICHARD D DILLINGER and MICHELLE L. DILLINGER, his wife // To: Center Point Terminal Company, LLC

DOCUMENT(S) SERVED: --

COURT/AGENCY: None Specified
Case # CC052021C74

NATURE OF ACTION: Personal Injury - Failure to Maintain Premises in a Safe Condition

ON WHOM PROCESS WAS SERVED: C T Corporation System, Charleston, WV

DATE AND HOUR OF SERVICE: By Certified Mail on 12/27/2021 postmarked: "Not Post Marked"

JURISDICTION SERVED : West Virginia

APPEARANCE OR ANSWER DUE: None Specified

ATTORNEY(S) / SENDER(S): None Specified

ACTION ITEMS: CT will retain the current log
Image SOP
Email Notification, Mary Hockle mhockle@apexoil.com
Email Notification, Jordan Federko jfederko@apexoil.com
Email Notification, Christina LeGrand clegrand@apexoil.com
Email Notification, Ashley Schuerman aschuerman@apexoil.com

REGISTERED AGENT ADDRESS: C T Corporation System
5098 Washington St. W. Ste. 407
Charleston, WV 25313
866-331-2303
CentralTeam1@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.

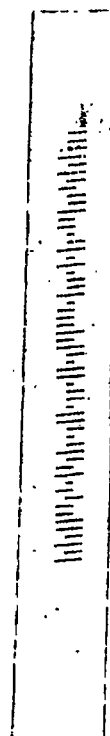
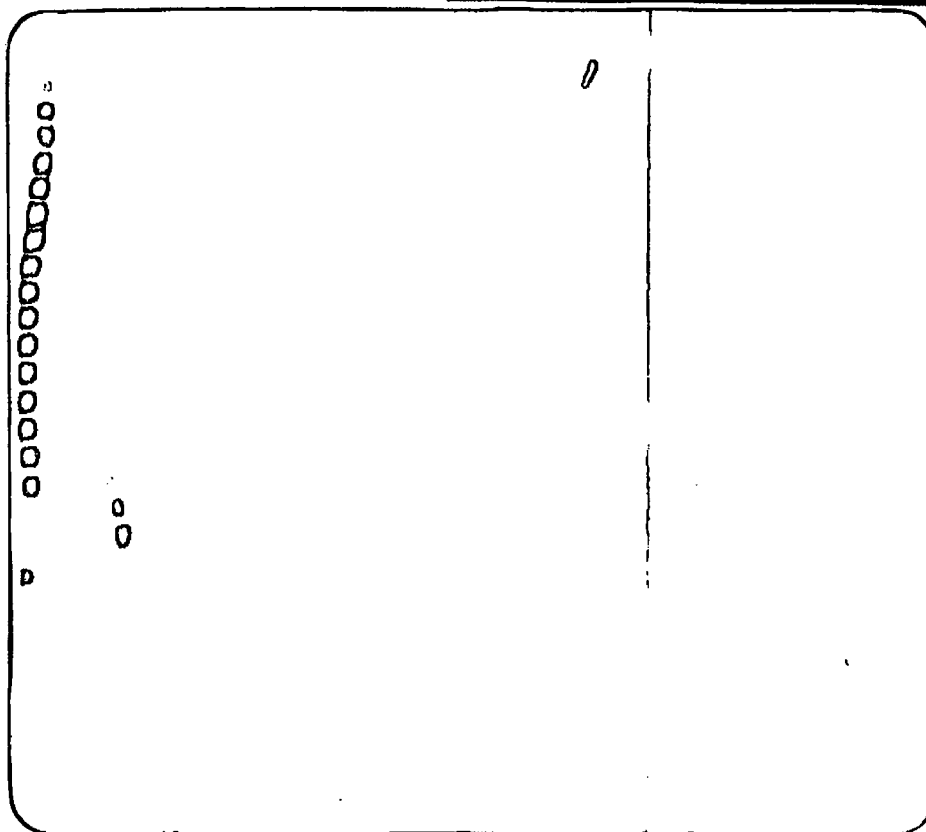
CERTIFIED MAIL



US POSTAGE PAID PITNEY BOWES



ZIP 25305 \$ 007.36⁰
02 4W
0000377395 DEC 23 2021



SUMMONS

COPY

E-FILED | 11/3/2021 3:29 PM
CC-05-2021-C-74
Brooke County Circuit Clerk
Glenda Brooks

IN THE CIRCUIT OF BROOKE WEST VIRGINIA

Richard D Dillinger v. Petroleum Fuel and Terminal Company

Service Type: Plaintiff - Secretary of State

NOTICE TO: Central Point Terminal Company, LLC, 5098 Washington Street W, Ste. 407, Charleston, WV 25313

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

James Villanova, 16 Chatham Sq, Pittsburgh, PA 15219

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

SERVICE:

11/3/2021 3:29:31 PM

Date

/s/ Glenda Brooks

Clerk

RETURN ON SERVICE:

☐ Return receipt of certified mail received in this office on _____

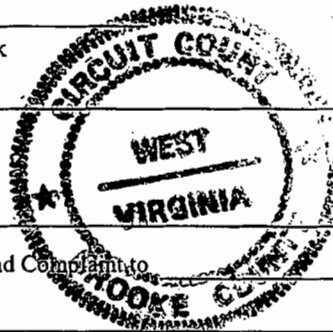
☐ I certify that I personally delivered a copy of the Summons and Complaint to _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to the individual's dwelling place or usual place of abode to _____, a member of the individual's family who is above the age of sixteen (16) years and by advising such person of the purpose of the summons and complaint.

☐ Not Found in Bailiwick

Date

Server's Signature



FILED 11/13/2021 3:29 PM
CC-05-2021-017
Brooke County Circuit Clerk
Glenda Brooks

IN THE CIRCUIT COURT OF BROOKE COUNTY,
WEST VIRGINIA

RICHARD D. DILLINGER, and)	Civil Division
MICHELLE L. DILLINGER, his wife,)	
)	Case No.:
Plaintiffs,)	
)	
v.)	
)	
PETROLEUM FUEL & TERMINAL)	
COMPANY, APEX OIL COMPANY, INC.,))	
CENTER POINT TERMINAL J & W,)	
LLC, CENTER POINT TERMINAL)	
COMPANY, LLC, and JOHN DOE(S),)	
)	
Defendants.)	

COMPLAINT IN CIVIL ACTION

AND NOW, come the Plaintiffs, Richard D. Dillinger, and Michelle L. Dillinger, his wife, by and through their undersigned attorneys, James A. Villanova, Esquire, Michael E. Metro, Esquire. and Villanova Law Offices, P.C., and avers the following:

1. Plaintiff, Richard D. Dillinger, is an adult individual currently residing at 12660 Goshen Road, Salem, Ohio 44460.
2. Plaintiff, Michelle L. Dillinger, is an adult individual currently residing at 12660 Goshen Road, Salem, Ohio 44460.
3. Defendant, Petroleum Fuel and Terminal Company, is a corporation which factually and systematically conducts and transacts business within Brooke County, West Virginia thereby purposely availing themselves to the privileges and benefits of conducting business within the State of West Virginia. Defendant, Petroleum Fuel and Terminal Company maintains a registered address c/o CT Corporation System, 5098 Washington Street W STE 407, Charleston, West Virginia 25313-1561. At all times

relevant and material hereto, the events described herein occurred at Defendant, Petroleum Fuel and Terminal Company's, crude oil storage facility located at 3048 Birch Drive, Weirton, Brooke County, West Virginia 26062.

4. Defendant, Apex Oil Company, Inc., is a corporation which factually and systematically conducts, and transacts business within Brooke County, West Virginia thereby purposely availing themselves of the privileges and benefits of conducting business within the State of West Virginia. Defendant, Apex Oil Company, Inc., maintains a registered address of c/o CT Corporation System, 5098 Washington Street W STE 407, Charleston, West Virginia 25313-1561. At all times relevant and material hereto, the events described herein occurred at Defendants crude oil storage facility at 3048 Birch Drive, Weirton, Brooke County, West Virginia 26062.

5. Defendant, Central Point Terminal J&W, LLC, is a corporation which factually and systematically conducts, and transacts business within Brooke County, West Virginia thereby purposely availing themselves of the privileges and benefits of conducting business within the State of West Virginia. Defendant, Central Point Terminal J&W, LLC, maintains a registered address of c/o CT Corporation System, 5098 Washington Street W STE 407, Charleston, West Virginia 25313-1561. At all times relevant and material hereto, the events described herein occurred at Defendants crude oil storage facility at 3048 Birch Drive, Weirton, Brooke County, West Virginia 26062.

6. Defendant, Central Point Terminal Company, LLC, is a corporation which factually and systematically conducts, and transacts business within Brooke County, West Virginia thereby purposely availing themselves of the privileges and benefits of conducting business within the State of West Virginia. Defendant, Central Point Terminal Company, LLC, maintains a registered address of c/o CT Corporation System,

5098 Washington Street WSTE 407, Charleston, West Virginia 25313-1561. At all times relevant and material hereto, the events described herein occurred at Defendants crude oil storage facility at 3048 Birch Drive, Weirton, Brooke County, West Virginia 26062.

7. Defendant(s) John Doe(s) are any and all unknown persons, associations, corporations or any other entity that committed any and all acts, either through itself or through its agents, or employees, or may be the correctly named Defendants of either Petroleum Fuel & Terminal Company, Central Point Terminal J&W, LLC, Central Point Terminal Company, LLC and/or Apex Oil Company, Inc., the acts and omissions of Defendants, Petroleum Fuel & Terminal Company, Central Point Terminal J&W, LLC, Central Point Terminal Company, LLC and/or Apex Oil Company, Inc., throughout this Complaint are also identified as the acts or omissions of the John Doe(s).

8. At all times relevant herein, Plaintiff, Richard D. Dillinger, was a non-trespasser, business invitee, who was delivering a load of crude oil to the aforesaid crude oil storage facility located at 3048 Birch Drive, Weirton, Brooke County, West Virginia 26062, and was without contributory negligence, comparative negligence or other wrongful conduct and he was using ordinary and reasonable care.

Statement of Facts

9. At all times relevant to this action, the Defendants, Petroleum Fuel & Terminal Company, Central Point Terminal J&W, LLC, Central Point Terminal Company, LLC, Apex Oil Company, Inc. and/or John Doe(s), owned and/or controlled the crude oil storage facility located at 3048 Birch Drive, Weirton, Brooke County, West Virginia 26062 also known as Apex Terminal.

10. On or about December 6, 2019, at the premises located at 3048 Birch Drive, Weirton, Brooke County, West Virginia, 26062, Defendants, Petroleum Fuel &

Terminal Company, Central Point Terminal J&W, LLC, Central Point Terminal Company, LLC, Apex Oil Company, Inc. and/or John Doe(s) caused the Plaintiff,

Richard D. Dillinger, to fall to the ground violently and with great force severely and permanently injuring himself.

11. On and prior to December 6, 2019, there existed adjacent to the loading dock at the aforesaid Apex Terminal located at 3048 Birch Drive, Weirton, Brooke County, West Virginia 26062, a dangerous, unsafe and hazardous condition created by a pothole or hole made of loose, dark gravel in the roadway adjacent to the loading dock.

COUNT I: NEGLIGENCE

Richard D. Dillinger v. Petroleum Fuel & Terminal Company

12. Paragraphs 1 through 11 are incorporated by reference.

13. Defendant, Petroleum Fuel & Terminal Company, was negligent, careless, grossly negligent and reckless by among other things:

- a. In failing to properly inspect, repair and maintain the surface of the aforesaid delivery roadway adjacent to the loading dock of the Apex Terminal and to keep the same free from dangerous conditions, including loose black gravel, which was subject to forming holes or potholes in the aforesaid roadway;
- b. In creating and allowing a dangerous condition, to wit, a pothole or hole in the delivery roadway adjacent to the loading dock at the aforesaid Apex Terminal, which Defendant knew, or should have known, was a falling hazard for oil delivery drivers such as Plaintiff walking thereon;
- c. In failing to correct the situation caused by a hole or pothole formed in the loose black gravel of the delivery roadway adjacent to the loading dock of the aforesaid Apex Terminal which would have prevented the Plaintiff from falling to the surface of the aforesaid delivery roadway;
- d. In failing to provide a safe pathway around the dangerous condition, namely, a hole or pothole of loose black gravel located in

the delivery roadway adjacent to the loading dock of Defendant Apex Terminal;

~~e. In failing to post signage or cordon off the affected area alerting those individuals, such as Plaintiff, who delivered crude oil to the aforesaid Apex Terminal of the condition of the aforesaid delivery roadway and;~~

f. In failing to do all necessary acts to provide for the Plaintiff's safety.

14. Said negligence, carelessness, gross negligence and/or recklessness of Defendant was a direct and proximate cause of Plaintiff's fall and resulting injury and damages.

15. As a direct and proximate result of Defendant's negligence, carelessness, gross negligence and/or recklessness, Plaintiff, Richard D. Dillinger, suffered serious permanent physical injuries, mental anguish, lost wages, loss of earning capacity and loss of capacity to enjoy life and will continue to suffer said damages in the future.

WHEREFORE, the above-described conduct of Defendant, Petroleum Fuel & Terminal Company, has directly and proximately caused injury to Plaintiff, Richard D. Dillinger, and the Plaintiff demands judgment against the Defendant, Petroleum Fuel & Terminal Company, jointly and severally, for the following relief and damages:

- a. Compensatory damages for past, present and future medical and life care expenses, lost wages, loss of earning capacity and all other special damages and loss of services in a fair and just amount determined by a jury;
- b. General damages for past, present and future pain and suffering, mental anguish, permanent injury, inconvenience, loss of society, service and companionship, loss of enjoyment of life and emotional distress in a fair and just amount determined by a jury;
- c. Pre-judgment and post-judgment interest;
- d. Costs and attorney fees expended in this action; and
- e. Any other further general or specific relief which the Court or jury may deem just or proper.

A JURY TRIAL IS DEMANDED

COUNT II: NEGLIGENCE

Richard D. Dillinger v. Apex Oil Company, Inc.

16. Paragraphs 1 through 15 are incorporated by reference.
17. Defendant, Apex Oil Company, Inc., was negligent, careless, grossly negligent and reckless by among other things:
 - a. In failing to properly inspect, repair and maintain the surface of the aforesaid delivery roadway adjacent to the loading dock of the Apex Terminal and to keep the same free from dangerous conditions, including loose black gravel, which was subject to forming holes or potholes in the aforesaid roadway;
 - b. In creating and allowing a dangerous condition, to wit, a pothole or hole in the delivery roadway adjacent to the loading dock at the aforesaid Apex Terminal, which Defendant knew, or should have known, was a falling hazard for oil delivery drivers such as Plaintiff walking thereon;
 - c. In failing to correct the situation caused by a hole or pothole formed in the loose black gravel of the delivery roadway adjacent to the loading dock of the aforesaid Apex Terminal which would have prevented the Plaintiff from falling to the surface of the aforesaid delivery roadway;
 - d. In failing to provide a safe pathway around the dangerous condition, namely, a hole or pothole of loose black gravel located in the delivery roadway adjacent to the loading dock of Defendant Apex Terminal;
 - e. In failing to post signage or cordon off the affected area alerting those individuals such as Plaintiff who delivered crude oil to the aforesaid Apex Terminal of the condition of the aforesaid delivery roadway and;
 - f. In failing to do all necessary acts to provide for the Plaintiff's safety.

18. Said negligence, carelessness, gross negligence and/or recklessness of Defendant was a direct and proximate cause of Plaintiff's fall and resulting injury and damages.

19. As a direct and proximate result of Defendant's negligence, carelessness, gross negligence and/or recklessness, Plaintiff, Richard D. Dillinger, suffered serious permanent physical injuries, mental anguish, lost wages, loss of earning capacity and loss of capacity to enjoy life and will continue to suffer said damages in the future.

WHEREFORE, the above-described conduct of Defendant, Apex Oil Company, Inc., has directly and proximately caused injury to Plaintiff, Richard D. Dillinger, and the Plaintiff demands judgment against the Defendant, Apex Oil Company, Inc., jointly and severally, for the following relief and damages:

- a. Compensatory damages for past, present and future medical and life care expenses, lost wages, loss of earning capacity and all other special damages and loss of services in a fair and just amount determined by a jury;
- b. General damages for past, present and future pain and suffering, mental anguish, permanent injury, inconvenience, loss of society, service and companionship, loss of enjoyment of life and emotional distress in a fair and just amount determined by a jury;
- c. Pre-judgment and post-judgment interest;
- d. Costs and attorney fees expended in this action; and
- e. Any other further general or specific relief which the Court or jury may deem just or proper.

A JURY TRIAL IS DEMANDED

COUNT III: NEGLIGENCE

Richard D. Dillinger v. Center Point Terminal J&W, LLC

20. Paragraphs 1 through 19 are incorporated by reference.

21. Defendant, Center Point Terminal J&W, LLC, was negligent, careless, grossly negligent and reckless by among other things:

- a. In failing to properly inspect, repair and maintain the surface of the aforesaid delivery roadway adjacent to the loading dock of the Apex Terminal and to keep the same free from dangerous conditions, including loose black gravel, which was subject to forming holes or potholes in the aforesaid roadway;
- b. In creating and allowing a dangerous condition, to wit, a pothole or hole in the delivery roadway adjacent to the loading dock at the aforesaid Apex Terminal, which Defendant knew, or should have known, was a falling hazard for oil delivery drivers such as Plaintiff walking thereon;
- c. In failing to correct the situation caused by a hole or pothole formed in the loose black gravel of the delivery roadway adjacent to the loading dock of the aforesaid Apex Terminal which would have prevented the Plaintiff from falling to the surface of the aforesaid delivery roadway;
- d. In failing to provide a safe pathway around the dangerous condition, namely, a hole or pothole of loose black gravel located in the delivery roadway adjacent to the loading dock of Defendant Apex Terminal;
- e. In failing to post signage or cordon off the affected area alerting those individuals such as Plaintiff who delivered crude oil to the aforesaid Apex Terminal of the condition of the aforesaid delivery roadway and;
- f. In failing to do all necessary acts to provide for the Plaintiff's safety.

22. Said negligence, carelessness, gross negligence and/or recklessness of Defendant was a direct and proximate cause of Plaintiff's fall and resulting injury and damages.

23. As a direct and proximate result of Defendant's negligence, carelessness, gross negligence and/or recklessness, Plaintiff, Richard D. Dillinger, suffered serious permanent physical injuries, mental anguish, lost wages, loss of earning capacity and loss of capacity to enjoy life and will continue to suffer said damages in the future.

WHEREFORE, the above-described conduct of Defendant, Center Point Terminal J&W, LLC, has directly and proximately caused injury to Plaintiff, Richard D. Dillinger, and the Plaintiff demands judgment against the Defendant, Center Point Terminal J&W, LLC, jointly and severally, for the following relief and damages:

- a. Compensatory damages for past, present and future medical and life care expenses, lost wages, loss of earning capacity and all other special damages and loss of services in a fair and just amount determined by a jury;
- b. General damages for past, present and future pain and suffering, mental anguish, permanent injury, inconvenience, loss of society, service and companionship, loss of enjoyment of life and emotional distress in a fair and just amount determined by a jury;
- c. Pre-judgment and post-judgment interest;
- d. Costs and attorney fees expended in this action; and
- e. Any other further general or specific relief which the Court or jury may deem just or proper.

A JURY TRIAL IS DEMANDED

COUNT IV: NEGLIGENCE

Richard D. Dillinger v. Center Point Terminal Company, LLC

24. Paragraphs 1 through 23 are incorporated by reference.
25. Defendant, Center Point Terminal Company, LLC, was negligent, careless, grossly negligent and reckless by among other things:
 - a. In failing to properly inspect, repair and maintain the surface of the aforesaid delivery roadway adjacent to the loading dock of the Apex Terminal and to keep the same free from dangerous conditions, including loose black gravel, which was subject to forming holes or potholes in the aforesaid roadway;
 - b. In creating and allowing a dangerous condition, to wit, a pothole or hole in the delivery roadway adjacent to the loading dock at the aforesaid Apex Terminal, which Defendant knew, or should have known, was a falling hazard for oil delivery drivers such as Plaintiff walking thereon;

- c. In failing to correct the situation caused by a hole or pothole formed in the loose black gravel of the delivery roadway adjacent to the loading dock of the aforesaid Apex Terminal which would have prevented the Plaintiff from falling to the surface of the aforesaid delivery roadway;
- d. In failing to provide a safe pathway around the dangerous condition, namely, a hole or pothole of loose black gravel located in the delivery roadway adjacent to the loading dock of Defendant Apex Terminal;
- e. In failing to post signage or cordon off the affected area alerting those individuals such as Plaintiff who delivered crude oil to the aforesaid Apex Terminal of the condition of the aforesaid delivery roadway and;
- f. In failing to do all necessary acts to provide for the Plaintiff's safety.

26. Said negligence, carelessness, gross negligence and/or recklessness of Defendant was a direct and proximate cause of Plaintiff's fall and resulting injury and damages.

27. As a direct and proximate result of Defendant's negligence, carelessness, gross negligence and/or recklessness, Plaintiff, Richard D. Dillinger, suffered serious permanent physical injuries, mental anguish, lost wages, loss of earning capacity and loss of capacity to enjoy life and will continue to suffer said damages in the future.

WHEREFORE, the above-described conduct of Defendant, Center Point Terminal Company, LLC, has directly and proximately caused injury to Plaintiff, Richard D. Dillinger, and the Plaintiff demands judgment against the Defendant, Center Point Terminal Company, LLC, jointly and severally, for the following relief and damages:

- a. Compensatory damages for past, present and future medical and life care expenses, lost wages, loss of earning capacity and all other special damages and loss of services in a fair and just amount determined by a jury;
- b. General damages for past, present and future pain and suffering, mental anguish, permanent injury, inconvenience, loss of society, service and

companionship, loss of enjoyment of life and emotional distress in a fair and just amount determined by a jury;

- c. Pre-judgment and post-judgment interest;
- d. Costs and attorney fees expended in this action; and
- e. Any other further general or specific relief which the Court or jury may deem just or proper.

A JURY TRIAL IS DEMANDED

COUNT V: NEGLIGENCE

Richard D. Dillinger v. John Doe(s)

28. Plaintiff incorporates Paragraphs 1 through 27 above as if set forth at length herein.

29. The Defendant, John Doe(s), was negligent, careless, grossly negligent and reckless by among other things:

30. Said negligence, carelessness, gross negligence and/or recklessness of the Defendant were the direct and proximate cause of Plaintiff's fall and resulting injuries and damages.

- a. In failing to properly inspect, repair and maintain the surface of the aforesaid delivery roadway adjacent to the loading dock of the Apex Terminal and to keep the same free from dangerous conditions, including loose black gravel, which was subject to forming holes or potholes in the aforesaid roadway;
- b. In creating and allowing a dangerous condition, to wit, a pothole or hole in the delivery roadway adjacent to the loading dock at the aforesaid Apex Terminal, which Defendant knew, or should have known, was a falling hazard for oil delivery drivers such as Plaintiff walking thereon;
- c. In failing to correct the situation caused by a hole or pothole formed in the loose black gravel of the delivery roadway adjacent to the loading dock of the aforesaid Apex Terminal which would have prevented the Plaintiff from falling to the surface of the aforesaid delivery roadway;

- d. In failing to provide a safe pathway around the dangerous condition, namely, a hole or pothole of loose black gravel located in the delivery roadway adjacent to the loading dock of Defendant Apex Terminal;
- e. In failing to post signage or cordon off the affected area alerting those individuals such as Plaintiff who delivered crude oil to the aforesaid Apex Terminal of the condition of the aforesaid delivery roadway and;
- f. In failing to do all necessary acts to provide for the Plaintiff's safety.

31. As a direct and proximate result of the Defendant's negligence, carelessness, gross negligence and/or recklessness, the Plaintiff, Richard D. Dillinger, suffered serious permanent physical injuries, mental anguish, lost wages, loss of earning capacity and loss of capacity to enjoy life, and will continue to suffer said damages in the future.

WHEREFORE, the above-described conduct of the Defendant, John Doe(s), has directly and proximately caused injury to the Plaintiff, Richard D. Dillinger, and the Plaintiff demands judgment against the Defendant, John Doe(s), jointly and severally for the following relief and damages:

- a. Compensatory damages for past, present and future medical and life care expenses, lost wages, loss of earning capacity and all other special damages and loss of services in a fair and just amount determined by a jury;
- b. General damages for past, present and future pain and suffering, mental anguish, permanent injury, inconvenience, loss of society, service and companionship, loss of enjoyment of life and emotional distress in a fair and just amount determined by a jury;
- c. Pre-judgment and post-judgment interest;
- d. Costs and attorney fees expended in this action; and
- e. Any other further general or specific relief which the Court or jury may deem just or proper.

A JURY TRIAL IS DEMANDED.

COUNT V: LOSS OF CONSORTIUM

Michelle L. Dillinger v. Petroleum Fuel & Terminal Company, Central Point Terminal J&W, LLC, Central Point Terminal Company, LLC, Apex Oil Company, Inc. and John Doe(s)

32. Plaintiff incorporates Paragraphs 1 through 31 above as if set forth at length herein.

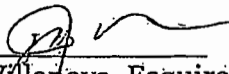
33. Plaintiff-wife, Michelle L. Dillinger, is living with, residing with and married to the Plaintiff, Richard D. Dillinger.

34. As the sole, direct and proximate result of the injuries sustained by the Plaintiff, Richard D. Dillinger, as is set forth with more particularity here and above, the Plaintiff-wife, Michelle L. Dillinger, has been deprived of the company and consortium of her husband and has been obligated to undertake numerous tasks on his behalf since he has been unable to act as he had prior to sustaining the injuries above-referenced.

WHEREFORE, Plaintiff, Michelle L. Dillinger, prays for judgment against the Defendants, Petroleum Fuel & Terminal Company, Central Point Terminal J&W, LLC, Central Point Terminal Company, LLC, Apex Oil Company, Inc. and John Doe(s), jointly and severally, in the amount in excess of the minimal jurisdictional limits plus interest and costs and asks further relief as a court or jury may find.

JURY TRIAL IS DEMANDED ON ALL ISSUES.

Respectfully Submitted,


James A. Villanova, Esquire

WV I.D. No.: 7120

Michael E. Metro, Esquire

WV. I.D. No.: 9590

Villanova Law Offices, P.C.

16 Chatham Square

Pittsburgh, PA 15219

(412) 471-1933

(412) 471-2733 (Fax)

Villanova.law.offices@gmail.com

COVER SHEET

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 CC-05-2021-C-74
 Brooke County Circuit Clerk
 Glenda Brooks

GENERAL INFORMATION

IN THE CIRCUIT COURT OF BROOKE COUNTY WEST VIRGINIA

Richard D Dillinger v. Petroleum Fuel and Terminal Company**First Plaintiff:**

☐ Business ☒ Individual
☐ Government ☐ Other

First Defendant:

☒ Business ☐ Individual
☐ Government ☐ Other

Judge:

Ronald E. Wilson

COMPLAINT INFORMATION**Case Type:** Civil**Complaint Type:** Real Property**Origin:**

☒ Initial Filing ☐ Appeal from Municipal Court ☐ Appeal from Magistrate Court

Jury Trial Requested:☒ Yes ☐ No**Case will be ready for trial by:** 12/31/2022**Mediation Requested:**☐ Yes ☒ No**Substantial Hardship Requested:** ☐ Yes ☒ No☐ Do you or any of your clients or witnesses in this case require special accommodations due to a disability?

- ☐ Wheelchair accessible hearing room and other facilities
☐ Interpreter or other auxiliary aid for the hearing impaired
☐ Reader or other auxiliary aid for the visually impaired
☐ Spokesperson or other auxiliary aid for the speech impaired
☐ Other: _____

☐ I am proceeding without an attorney☒ I have an attorney: James Villanova, 16 Chatham Sq, Pittsburgh, PA 15219

SERVED PARTIES

Name: Petroleum Fuel and Terminal Company
Address: 5098 Washington Street W STE. 407, Charleston WV 25313
Days to Answer: 30 **Type of Service:** Plaintiff - Secretary of State

Name: Apex Oil Company
Address: 5098 Washington Street W Ste. 407, Charleston WV 25313
Days to Answer: 30 **Type of Service:** Plaintiff - Secretary of State

Name: Central Point Terminal J&W, LLC
Address: 5098 Washington Street W Ste. 407, Charleston WV 25313
Days to Answer: 30 **Type of Service:** Plaintiff - Secretary of State

Name: Central Point Terminal Company, LLC
Address: 5098 Washington Street W Ste. 407, Charleston WV 25313
Days to Answer: 30 **Type of Service:** Plaintiff - Secretary of State

Name: John Doe(s)
Address:
Days to Answer: N/A **Type of Service:** No Service

SUMMONS

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Brooke County Circuit Clerk
Glenda Brooks

IN THE CIRCUIT OF BROOKE WEST VIRGINIA
Richard D Dillinger v. Petroleum Fuel and Terminal Company

Service Type: Plaintiff - Secretary of State

NOTICE TO: Petroleum Fuel and Terminal Company, 5098 Washington Street W, STE. 407, Charleston, WV 25313

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

James Villanova, 16 Chatham Sq, Pittsburgh, PA 15219

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

SERVICE:

11/3/2021 3:29:31 PM

Date

/s/ Glenda Brooks

Clerk

RETURN ON SERVICE:

☐ Return receipt of certified mail received in this office on _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to the individual's dwelling place or usual place of abode to _____, a member of the individual's family who is above the age of sixteen (16) years and by advising such person of the purpose of the summons and complaint.

☐ Not Found in Bailiwick

Date

Server's Signature

SUMMONS

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Brooke County Circuit Clerk
Glenda Brooks

IN THE CIRCUIT OF BROOKE WEST VIRGINIA
Richard D Dillinger v. Petroleum Fuel and Terminal Company

Service Type: Plaintiff - Secretary of State

NOTICE TO: Apex Oil Company, 5098 Washington Street W, Ste. 407, Charleston, WV 25313

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/s/ Glenda Brooks

Clerk

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Date

Server's Signature

SUMMONS

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Brooke County Circuit Clerk
Glenda Brooks

IN THE CIRCUIT OF BROOKE WEST VIRGINIA
Richard D Dillinger v. Petroleum Fuel and Terminal Company

Service Type: Plaintiff - Secretary of State

NOTICE TO: Central Point Terminal J&W, LLC, 5098 Washington Street W, Ste. 407, Charleston, WV 25313

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SERVICE:

11/3/2021 3:29:31 PM

Date

/s/ Glenda Brooks

Clerk

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SUMMONS

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Brooke County Circuit Clerk
Glenda Brooks

IN THE CIRCUIT OF BROOKE WEST VIRGINIA
Richard D Dillinger v. Petroleum Fuel and Terminal Company

Service Type: Plaintiff - Secretary of State

NOTICE TO: Central Point Terminal Company, LLC, 5098 Washington Street W, Ste. 407, Charleston, WV 25313

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SERVICE:

11/3/2021 3:29:31 PM

Date

/s/ Glenda Brooks

Clerk

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Date

Server's Signature

Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305

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CC-05-2021-C-74
Brooke County Circuit Clerk
Glenda Brooks



Mac Warner
Secretary of State
State of West Virginia
Phone: 304-558-6000
886-767-8883
Visit us online:
www.wvsos.com

BROOKE COUNTY COURT CLERK OF THE CIRCUIT
COURT
PO BOX 474
Wellsburg, WV 26070-0474

Control Number: 285371

Defendant: CENTER POINT TERMINAL J&W,
LLC
5098 WEST WASHINGTON STREET
SUITE 407
CHARLESTON, WV 25313 US

Agent: C. T. Corporation System

County: Brooke

Civil Action: 21-C-74

Certified Number: 92148901125134100003378529

Service Date: 12/22/2021

I am enclosing:

1 summons and complaint

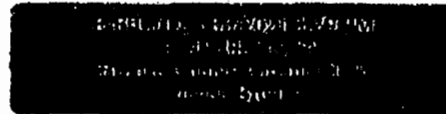
which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in the name and on behalf of your corporation.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in the name and on behalf of your corporation as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.

Sincerely,

Mac Warner

Mac Warner
Secretary of State

SUMMONS

IN THE CIRCUIT OF BROOKE WEST VIRGINIA
Richard D Dillinger v. Petroleum Fuel and Terminal Company

Service Type: Plaintiff - Secretary of State

NOTICE TO: Central Point Terminal J&W, LLC, 5098 Washington Street W, Ste. 407, Charleston, WV 25313

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

James Villanova, 16 Chatham Sq, Pittsburgh, PA 15219

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SERVICE:

11/3/2021 3:29:31 PM

Date

/s/ Glenda Brooks

Clerk

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☐ Not Found in Bailiwick

Date

Server's Signature

Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305

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Brooke County Circuit Clerk
Glenda Brooks



Mac Warner
Secretary of State
State of West Virginia
Phone: 304-558-6000
888-767-8683
Visit us online:
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BROOKE COUNTY COURT CLERK OF THE CIRCUIT
COURT
PO BOX 474
Wellsburg, WV 26070-0474

Control Number: 285372

Defendant: CENTER POINT TERMINAL
COMPANY, LLC
5098 WEST WASHINGTON STREET
SUITE 407
CHARLESTON, WV 25313 US

Agent: C. T. Corporation System

County: Brooke

Civil Action: 21-C-74

Certified Number: 92148901125134100003378536

Service Date: 12/22/2021

I am enclosing:

1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in your name and on your behalf.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on your behalf as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.

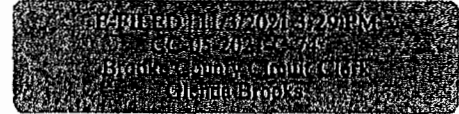
Sincerely,

A handwritten signature in cursive script that reads "Mac Warner".

Mac Warner
Secretary of State

SUMMONS

ORIGINAL



IN THE CIRCUIT OF BROOKE WEST VIRGINIA
Richard D Dillinger v. Petroleum Fuel and Terminal Company

Service Type: Plaintiff - Secretary of State

NOTICE TO: Central Point Terminal Company, LLC, 5098 Washington Street W, Ste. 407, Charleston, WV 25313
 THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

James Villanova, 16 Chatham Sq, Pittsburgh, PA 15219

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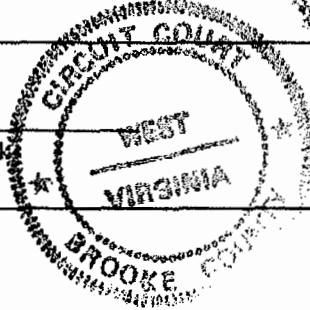
SERVICE:

11/3/2021 3:29:31 PM

Date

/s/ Glenda Brooks

Clerk



RETURN ON SERVICE:

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☐ Not Found in Bailiwick

Date

Server's Signature

Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305

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Brooke County Circuit Clerk
Glenda Brooks



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Secretary of State
State of West Virginia
Phone: 304-558-6000
886-767-8683
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BROOKE COUNTY COURT CLERK OF THE CIRCUIT
COURT
PO BOX 474
Wellsburg, WV 26070-0474

Control Number: 285373

Defendant: APEX OIL COMPANY, INC.
5098 WEST WASHINGTON STREET
SUITE 407
CHARLESTON, WV 25313 US

Agent: C. T. Corporation System

County: Brooke

Civil Action: 21-C-74

Certified Number: 92148901125134100003378543

Service Date: 12/22/2021

I am enclosing:

1 summons and complaint

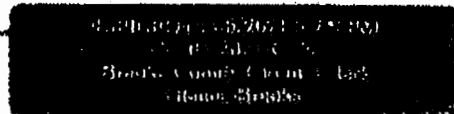
which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in the name and on behalf of your corporation.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in the name and on behalf of your corporation as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.

Sincerely,

A handwritten signature in cursive script that reads "Mac Warner".

Mac Warner
Secretary of State

SUMMONS

IN THE CIRCUIT OF BROOKE WEST VIRGINIA
Richard D Dillinger v. Petroleum Fuel and Terminal Company

Service Type: Plaintiff - Secretary of State

NOTICE TO: Apex Oil Company, 5098 Washington Street W, Ste. 407, Charleston, WV 25313

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

James Villanova, 16 Chatham Sq, Pittsburgh, PA 15219

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SERVICE:

11/3/2021 3:29:31 PM

Date

/s/ Glenda Brooks

Clerk

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☐ Not Found in Bailiwick

Date

Server's Signature

Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305

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Brooke County Circuit Clerk
Glenda Brooks



Mac Warner
Secretary of State
State of West Virginia
Phone: 304-558-6000
886-767-8883
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www.wvsos.com

BROOKE COUNTY COURT CLERK OF THE CIRCUIT
COURT
PO BOX 474
Wellsburg, WV 26070-0474

Control Number: 285374

Defendant: PETROLEUM FUEL & TERMINAL
COMPANY
5098 WEST WASHINGTON STREET
SUITE 407
CHARLESTON, WV 25313 US

Agent: C. T. Corporation System

County: Brooke

Civil Action: 21-C-74

Certified Number: 92148901125134100003378550

Service Date: 12/22/2021

I am enclosing:

1 summons and complaint

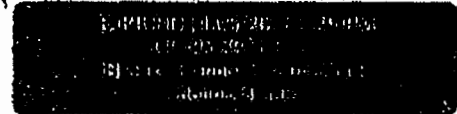
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Mac Warner
Secretary of State

SUMMONS**ORIGINAL**

IN THE CIRCUIT OF BROOKE WEST VIRGINIA
Richard D Dillinger v. Petroleum Fuel and Terminal Company

Service Type: Plaintiff - Secretary of State

NOTICE TO: Petroleum Fuel and Terminal Company, 5098 Washington Street W, STE. 407, Charleston, WV 25313
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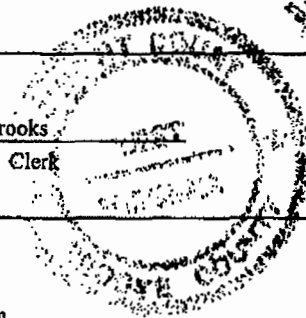
SERVICE:

11/3/2021 3:29:31 PM

Date

/s/ Glenda Brooks

Clerk

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